

Institute for Urban Economics

FEDERALISM, LOCAL GOVERNANCE, AND DELINEATION OF RESPONSIBILITIES

Discussion Outline

START-UP OF THE PUBLIC DISCUSSION

The last year was marked by the growing public involvement in the discussion of most essential issues of local governance and statehood development in Russia. Numerous initiatives of independent research centers and public associations including the People's Assembly, the Club 2015, the Confederation of Consumers' Associations and the Institute for Urban Economics, have become the focus of a great variety of publications, projects and seminars. In addition to traditional topics of public discussions such as environmental safety, human rights and social policy the Civil Forum also covered such topics as national and public security, public agreement, state and local governance development.

The recently established Presidential Commission for delineation of responsibilities between federal, regional and local authorities has got together not only governmental agencies, ministries and departments but the Congress of Municipalities and a diversity of think tanks as well.

The public concern with these issues can hardly be called casual as well as far from being casual is the statement of the RF President V. Putin who in his address to the Federal Assembly said that equitable sharing of powers and responsibilities between federal and regional state authorities and local self-governments is a real challenge for today. In the search for ways to meet this challenge specific difficulties in coordination of the recent reforms, starting from the tariff regulation to the targeting of social assistance, have become apparent, as well as such traditional points at issue as the federalism and self-governance have assumed a significance of acute political problems. So, it would be valid to say that the delineation of governmental responsibilities is in fact one of the most urgent and formidable task determinative for the future strategy of the country's development.

MAIN APPROACHES

Federalism

The discussion on delineation of governmental responsibilities has made the public to overlook the academicians' disputes upon the future of the federalism that were going on for the last few years because the **very idea of the federative structure of Russia is now treated by many as rather questionable**. Many policy-makers and scholars are now rather straight in their accounts: "A federation as a model of state is not immanent for Russia. It would be unreasonable to think that nothing can be changed, that this is the best model for Russia, and thus there are no issues to discuss", or: "The Federation model brought forth in 1918 as a product of specific political ambitions was and is of no favor for Russia. Perhaps, it would be more reasonable for Russia to become a unitary state with self-governing municipalities and autonomous national localities."¹

Another, yet more popular, approach is to hold on to the constitutional principles of the public governance but just formally so that actual **relations between Federation Subjects will become a mere formality**. It is, for example, suggested to subject issues of joint - federal and subfederal

¹ From presentations made at the roundtable discussion, *Russian Federalism: Modernization Issues*, held by the Federation, Federal Treaty and Regional Policy Committee of the Federation Council of the RF Federal Assembly on March 27, 2001, <http://www.council.gov.ru>

- jurisdiction to the detailed regulation; to reinforce the vertical of executive power by introducing a great variety of rules and regulations; to establish a Federal Supervisory Chamber with a country-wide net of branches exercising very broad powers to control even retail trade and public catering businesses, etc.

In this context, the stand of advocates of federalism gains a particular importance. Professor L. V. Smirnyagin was quite right saying: “It is worth noting that **federalism is the only possible model of statehood in Russia**. It is very difficult to rule countries of such potential (both geographical and public) from the center as a unitary state, because, as a rule, countries of this type have a rather complex inner structure and quite definite disagreements, first, between their parts, and, second, between these parts and the center. In the unitary state the central government has to employ force to alleviate these disagreements; as a result, the diversity of the state inner structure turns into a permanent source of political tension. By contrast, a federation provides efficient instruments for balancing interests of various parts of the country and thus creating a possibility to use the diversity of them as a major factor of the country’s development (for example, as a result of the large-scale regional division of labor)”².

Local self-governance

Unlike the federalism, the conceptual and practical importance of the local self-governance calls no questions; otherwise Russia would have not only to revise its Constitution but also withdraw from the community of countries that ratified the European Local Self-Governance Charter, which would be definitely disapproved by the world community. However, in fact nearly all policy-makers and most part of the research community in Russia are inclined to treat the local self-governance as **the third (local) level of state power**. The objective reason to this is the present overburden of local administrations with state responsibilities.

We believe that the idea of local self-governance is going far beyond the narrow pragmatic interpretation of it as just an efficient instrument for governing cities and settlements. In fact, this institute is of no less importance than the freedom of speech, the right of conscience and other democratic values. The validity of this conclusion is supported by the Constitution, which guarantees the autonomy of local governments from bodies of state power. The last year evidenced the growing public understanding that the local self-governance creates a perfect environment for fostering public initiatives and attaining a public agreement and that, in general, **it is a public phenomenon rather than an instrument of state power**. The Civil Forum demonstrated that despite the severe criticism of local governance by various parties they all are unanimous in treating it as a particularly important factor for the development of a civil society.

Democracy

Following the statement of Thomas Jefferson, the federalism is a spatial form of democracy. Today, both the federalization and the strengthening of local self-governance should be viewed as equally important factors for building up democratic principles of the state power in Russia. They are both essential for encouraging the growth of public initiatives throughout the country. **The development of local self-governance is the same imperative for democratic Russia as the development of federalism**. The development of local self-governance in a federation directly depends on how mature this federation is. The more popular are traditions of authoritative and centralized governance in a state, the more dangerous is the limitation of local self-governance for it.

² L. V. Smirnyagin, Russian Federalism Today – Problems Real and Deceptive, <http://www.golos.ru>

MAIN PRINCIPLES AND MODELS OF DELINEATION OF RESPONSIBILITIES: “BIAS TOWARDS COMPLEXITY”

Centralization, decentralization, and deconcentration

As of now, the world is aware of three models of delineation of governmental responsibilities differing from each other by decision-making levels. These are: **centralization, decentralization and deconcentration** (centralized decision-making followed by decentralized implementation of decisions). Generally, it is considered inadvisable to delegate issues of the every-day life of a local community to upper level governments. Only when an interest in a specific public service is demonstrated by a whole society rather than a specific community, then it would be reasonable, with all other terms and conditions equal, to delegate this service to “the center”. There also exist other criteria helping to choose the best model of delineation of responsibilities. For example, it is highly recommendable to take into account such important criterion as “economies of scale” (when the average cost of a public service, generally, comes down as its volume increases).

Subsidiary liability

But the most important criterion for delineation of responsibilities is, of course, **the principle of subsidiary liability**, the origin of which comes back to the medieval social philosophy. It is considered that the contemporary interpretation of this principle was for the first time formulated by Pope Piy XI in his encyclical, *Quadrogesimo Anno* (1931): “The following principle of social wisdom should remain persistent: just as it is impermissible to transfer to a society what a person can do all by him/herself, so also is impermissible to transfer to a more prominent (by rank) organization what can be done by smaller and weaker communities. Violation of this rule will be very detrimental for a society, ... for the innate objective of any intervention into public affairs is to provide a support to members of a social entity rather than destroy and take them over.”³

The practical implementation of this principle comes back to the second half of the XXth century when it became a provision of several international acts, including the *Local Self-Governance Charter*, governing the delineation of responsibilities between different levels of power. Germany was the first who incorporated this principle (in 1992) into a national constitution as one of the principles of building a federation: “In order to implement the concept of Unified Europe Germany will take part in the development of the European Union, which will bind itself with an obligation to follow the principles of a democratic, law-based, social and federative State and the principle of subsidiary liability.”⁴

Presently all discussions of the future European Federation use this principle as a starting point. The principle of subsidiary liability is both useful for strengthening a federation and for regulating relations and delineating responsibilities between the State and local self-governments.

Delineation of responsibilities between the State and the public community

The discussion of the role of local self-governance reveals one more important problem. In accordance with two major public needs: efficient governance and democratic development, the local self-governance should be treated not only as an instrument to ensure better management of and access to public services but also as a guarantor of civil liberties, liabilities and self-reliance. It also favors the development of the public self-rule, which, in turn, ensures the sustainability of the public community and state.

³ A. A. Ampleeva, *Subsidiary Liability as a Component of an Efficient Society*, Institute for Social Science Data Supply, the Russian Academy of Science (INION RAN), <http://www.sobor.ru>

⁴ A. S. Avtonomov, *Principle of Subsidiary Liability and Russian Federalism*, State and Law Institute, Russian Academy of Science, <http://federakmcart.ksu.ru>

And again the principle of subsidiary liability is here in force. A mature civil society can perform the self-governance function by using a wide range of mechanisms including local administrations, self-regulating economic associations, various popular movements, and thus gradually assuming a definite portion of reforming and regulation responsibilities of the state.

Variability and “affection towards complexity”

The main vector of the development is **to encourage local initiatives on retention of a single legislative environment**. This is the right way to enhance the country's competitiveness by improving the diversity of its regions and supporting local governments in accordance with their cultural and economic distinctions. One of the values of federalism formulated during the Montre Congress in 1947 is “the bias towards complexity as opposed to the simplification typical for the totalitarian philosophy”.⁵

A good demonstration of this bias is the great variability of administrative and economic models of local self-governance. Europe alone has two-, three-, four-, or even five-level administrative and territorial structures using various models of delineation of state and local governance responsibilities. For example, the most intricate is the French model structured as follows: at the bottom are self-administered communes, the next level are a bit larger cantons and districts (okrugs) which are also self-governing; then the elements of local self governance can be also traced at the level of departments, and only then the way is given to bodies of state power functioning at the level of regions.

A few comments on deconcentration

It would be incorrect to interpret the term “deconcentration only as mere fulfillment of prescriptions of upper-level governments. In fact, it suggests a number of special mechanisms for regions' and localities' involvement in making decisions what forms and instruments to use to implement prescriptions of “the center”. At the federal level specific models of a problem solution may be designed, but they will be mandatory for implementation only if subfederal and local governments fail to suggest and approve in accordance with the established procedure their own models. Specifically, the deconcentration can be provided with the help of the following mechanisms:

- ? Regional demonstration waivers;
- ? Participation finance, block-grants, etc.

The principle of demonstration waivers is that Federation Subjects are vested with a conditional authority to choose methods and mechanisms for the implementation of federal rules and policies. Generally, this authority is provided under the following conditions:

- ? Competitive selection of project sites;
- ? A limited period of the project implementation (usually from 3 to 5 years)
- ? No additional finance support that a region would receive if it follows the federal model of policy implementation
- ? Monitoring and comprehensive evaluation of the waiver results and impact

However, federal authorities still continue to be responsible for defining the federal policy goals, setting priorities in the implementation of demonstration waivers, issuing permits to launch projects, supervising and evaluation of their outcomes. If a demonstration project is recognized a success it may serve as the basis for designing and introduction of amendments into federal laws and rules. The procedure for issuing permits for replication of this project in other regions may be also simplified.

⁵ Dushan Sidjanski, *The Federalistic Future of Europe: From the European Community to the European Union*, Moscow, RGGU, 1998

Executive dualism and executive federalism

The world community is aware of two models of implementation of federal programs: **executive dualism and executive federalism**. The first model implies detailed federal regulation, federal finance and management of programs via local executive bodies of the federal government. The second provides for a framework regulation at the federal level, federal or participation finance and management programs via local executive bodies of subfederal governments. What model to choose depends on the type of program to be implemented. For example, the first model is typically used for the implementation of pension programs whereas social safety programs are mostly implemented based on the second model.

Vertical and horizontal cooperation

However, in either case, a particular emphasis is placed on the **cooperation**, which is treated as an integral component of delineation of responsibilities when the law treats them as the joint jurisdiction or a subject matter of mutual agreement. The vertical and horizontal cooperation is a major advantage of the federalism, for it creates an excellent opportunity for establishing mechanisms of cooperation between various levels of state and local authorities. The intermunicipal cooperation is a good illustration. To address tasks exceeding the capacities of an average municipality there is no necessity to move them to an upper level. There is a variety of other models to handle such tasks:

- ? Purchase of services of a larger municipality by smaller ones (this is the way how usually refugee and crisis centers are created);
- ? Establishment of agencies managed by representatives from several municipalities (transportation companies is a good example of such cooperation);
- ? Involvement of several municipalities in the implementation of large projects (for example, the construction of a garbage disposal plant). Etc.

Most likely, the development of cooperation mechanisms in this country will take an extended period of time with forms of such cooperation varying by regions and localities (to the extent permitted by the Constitution, which ensures equal relations with the federal government for all subjects of the Russian Federation).

Russian background

Although, the bias towards the centralized governance has been always typical for the political culture of Russia, it also has its own history of the development of federalism. Ideas of the Decembrist N. Muraviev, one of the drafters of the first Russian Constitution, had, for example, much in common with the concept of federalism. Most expressly the federalist ideas were formulated in the “Siberian Oblast Autonomy” concept (developed in the XIX-early XX), which suggested granting economic and cultural autonomy to Siberian regions with simultaneous retention of a single legislative environment in the country.⁶ However, the incipient Russian federalism failed to resist the temptation to make use of the power of nationalist movements. Accordingly, on the brink of ages a new, rather contradictory, concept of “the national territorial autonomy” emerged, which later Bolsheviks used as the opposite to Denikin’s model of “a single and unbroken Russia.”⁷

But, in general, the both governance models – the pre-revolutionary and the Soviet one – were based on the belief that correct decisions can be taken only by “the center” and thus the regional and local diversity should be eliminated for the common benefit rather than fostered (under the

⁶ G. Potanin: *Oblast Autonomy Trends in Siberia*, Tomsk, 1907, pp. 57-58.

⁷ A. G/ Vishnevsky: *The Soviet Federalism between the Unitarism and Nationalism: Which Way will Russia Choose? The Social Transformation of the Post-Soviet Environment*. Moscow, Intercenter, MVSSh, 1996.

Soviets the common benefit was the construction of communism, and today this is the support of civil rights and liberties).

The 1990-ies witnessed a new phase in the development of federalism in Russia, when regions whose diversity had been so long restrained burst their way to inadequately treated sovereignty. The then practice of concluding contracts on delineation of responsibilities between the central government and the Federation Subjects resulted in imbalanced relations between the Federation Subjects and violation of the constitutional guarantee of equitable relations between the federal government and governments of the Federation Subjects. The need to remove this discrepancy is indisputable.

Lookout for Russia: back to centralization?

What will be the way out? Perhaps, it would be appropriate to come back to the traditional model of the centralized governance and control?

Today, in fact, the institutions of federalism and local governance are suffering from “the growing pains” the systematic nature of which should be mostly attributed to the historically weak civil society in Russia, sluggishness of its citizens, and a deficit of responsibility for what is happening on-site. Inadequate relations between state authorities and local self-governments cause, first, the discrepancy between upper-level decisions and real needs of citizens, and, second, the lack of mechanisms for translating reasonable decisions from the upper to lower levels. Therefore, now attempts are made to bring “the governmental vertical” down up to the local level in order to expand the supervisory responsibilities of the center.

At first glance, it would seem that this is a good way out of many crisis situations that will allow keeping the country under control as a single legal and economic environment. Most likely, the controllability of the country will indeed improve to a certain extent, but this will be a very short-term effect. Typically, the policy of centralization drastically enhances the administrative and management risks, and weakens the country’s responsiveness to formidable economic and political challenges. To achieve a real progress in reforming a system of control powers and responsibilities should be developed at local rather than the central government level.

Usually centralized decisions preserve the problem as it is since they are unable to suggest systematic reforms. Deficiencies or even abuses accompanying the establishment of federalism and local governance should not be used as an argument against these institutions as well as business fraud cannot be used as an argument against the market-driven economy, or maltreatment in mass media - as an argument against the freedom of speech.

In the context of the global competition the centralization of regulatory powers will not be able to improve the efficiency of the country’s governance as well as to strengthen its competitive position on the world market.

The diversity and balance of interests as a source for improved efficiency of public governance

In such large country as Russia its **diversity should be turned into its advantage rather than disadvantage**, and it is precisely these institutions - federalism and local self-governance – that provide good instruments to use this diversity for a political benefit.

So, the cornerstone of the country’s success is the creation of a comprehensive system capable to strike a compromise between the centralization and decentralization trends and cause the cultural and economic diversity of the country to become a source of its governance efficiency. **The key to the national unity lies in achievement of a constructive agreement between the national, regional and local interests rather than establishment of the centralized regulation and control.**

Strategically, it appears essential to use **the decentralization model** as the base principle of delineation of responsibilities when not only executive and administrative but also regulatory and supervisory powers are assigned to the level of government that can do it most rationally

(local self-governments, governments of the Federation Subjects, federal government). There is also a selection of issues and areas of public relations that will require a particularly careful search for striking a compromise between the centralization and decentralization models.

Only then Russia will have an opportunity to benefit from the great potential of local self-governments, which are designed to play a distinctive role in the development of a new system of relations between the state and public community and which are expected to be used in Russia as a strategic long-term instrument of development of the civil society and as a background for attainment of the public agreement.